



# RULE-MAKING ORDER

**CR-103 (June 2004)**  
(Implements RCW 34.05.360)

**Agency:** Department of Retirement Systems

☒ **Permanent Rule**  
☐ **Emergency Rule**

**Effective date of rule:**

**Permanent Rules**

☒ 31 days after filing.  
☐ Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

☐ Immediately upon filing.  
☐ Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes ☒ No If Yes, explain:

**Purpose:** Teacher's Retirement System rules are being amended to eliminate any confusion regarding the use of the term "school year"; and to clarify eligibility requirements and the method for computing earnable compensation for TRS Plan 1 part-time employees. Amendments to WAC 415-112-541, which were also proposed under the notice filed as WSR 04-18-062, will be adopted at a later date after the department carefully considers all comments.

**Citation of existing rules affected by this order:**

Repealed:

Amended: WAC 415-112-015, 415-112-125, 415-112-140, 415-112-155, 415-112-156, 415-112-330, 415-112-400, 415-112-440, 415-112-600, 415-112-810, 415-112-820, 415-112-830

Suspended:

**Statutory authority for adoption:** RCW 41.50.050(5)

**Other authority :** For 415-112-330: RCW 41.32.270. For WAC 415-112-810, 415-112-820, 415-112-830, and 415-112-835: RCW 41.32.345.

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 04-18-062 on August 27, 2004.

Describe any changes other than editing from proposed to adopted version: **WAC 415-112-015(5)** Added technical colleges to the definition of "Public educational institution". **WAC 415-112-330** Included "technical colleges". **WAC 415-112-810** (2)(a), included a reference to extended school year programs according to WAC 415-112-835. **WAC 415-112-820** Added technical colleges. Deleted references to "fiscal year" where applicable. Corrected a WAC citation. **WAC 415-112-830** Amended the footnote for clarity. **WAC 415-112-835** Amended (1) (b) to read: "You work past June 30 of the second year". Added a footnote to clarify that qualifying members could have their annual earnable compensation modified by either WAC 415-112-830 or 415-112-835.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**Date adopted:** October 18, 2004

**NAME (TYPE OR PRINT)**

John Charles

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

Filed with the Office of the Code Reviser as"

**WSR 04-21-080**

**October 20, 2004**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	<u>13</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

**WAC 415-112-015 Definitions.** (1) All definitions in RCW 41.32.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.32 RCW are defined in this chapter.

(2) **"Annual leave"** means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not usually include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work. However, if an employer authorizes only one type of leave, covering paid leave for vacation, illness, and any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

(3) ~~((Contract period for Plan 1 members as used in RCW 41.32.345 means the period from July 1 to June 30 of the following year.~~

~~((4)))~~ **Ineligible position** means a position which does not qualify as an eligible position under RCW 41.32.010.

~~((5)))~~ (4) **Pension benefit** means that portion of a retiree's monthly retirement allowance that is funded by the state of Washington and the retiree's former employer or employers.

~~((6)))~~ (5) **Public educational institution** means a school district, the state school for the deaf, the state school for the blind, educational service districts, institutions of higher education, or community or technical colleges.

~~((7)))~~ (6)(a) **Public school** as defined in RCW 41.32.010 includes school districts, educational service districts, the state school for the deaf, and the state school for the blind but does not include the office of the superintendent of public instruction.

(b) As applied to other TRS employers, "public school" means an institution, fifty percent or more of whose employees are "qualified to teach," whose primary function is to educate students. See subsection (8) of this section.

~~((8)))~~ (7) **Qualified to teach** as used under RCW 41.32.010 means either:

(a) Having the authority to provide instruction at a common school as defined under RCW 28A.150.020 pursuant to:

(i) A valid teaching certificate issued by the office of the superintendent of public instruction under WAC 180-75-055;

or

(ii) A permit to teach issued by lawful authority of this state under RCW 28A.405.010; or

(b) Being employed under a contract to teach with an institution of higher education as defined in RCW 28A.150.020.

~~((9))~~ (8) **Reportable compensation** means earnable compensation as that term is defined in RCW 41.32.010(10).

~~((10)(a))~~ **School year** for Plan 1 members means the fiscal year running from July 1 to June 30.

~~(b)~~ "School year" for Plan 2 and 3 members means the twelve-month period from September 1 of one year to August 31 of the following year.

~~((11))~~ (9) **Service in an administrative or supervisory capacity** as used under RCW 41.32.010 and in this chapter:

(a) Means:

(i) Service in a managerial role relating to the administration of a public school; or


(ii) Service involving the exercise of direction over employees of the public school.


(b) Includes, but is not limited to, service as: Principal, assistant principal, superintendent, assistant superintendent, personnel manager and business manager.


~~((12))~~ (10) **Service in an instructional capacity** means a qualified teacher performing services as a classroom teacher.

~~((13))~~ (11) **Spousal consent** requires written evidence that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on the retirement application, duly executed and filed with the department, ~~((shall))~~ constitutes ~~((spousal consent))~~ written evidence.

~~((14))~~ (12) **System acronyms** used in this chapter are defined as follows:

 "PERS" means the public employees' retirement system.

 "SERS" means the school employees' retirement system.

 "TRS" means the teachers' retirement system.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

**WAC 415-112-125 If I am eligible, how can I establish membership?** (1) If you met the conditions in the following table, you established TRS membership. Your plan status depends upon the date you established membership, as indicated in the following table:

Period of Service	Type of Employment	Plan
Prior to 10/01/77 <sup>1/</sup>	If you were contracted to teach full-time you were mandated into membership.  If you were employed under a less than full-time contract and you exercised your option to establish membership prior to 10/01/77, you had the option to apply for membership under RCW 41.32.240, if you worked 90 or more full-time days <sup>2/</sup> during a fiscal year.	Plan 1
10/01/77 through 06/06/90	If you were contracted to teach full-time you were required to be a member.  If you were employed as a substitute teacher or under a less than full-time contract, you have the option to apply for membership under RCW 41.32.240 if you worked a minimum of 90 full-time days <sup>2/</sup> during a (( <del>school</del> )) <u>fiscal</u> year, provided 1 month had at least 90 hours.	Plan 2
6/07/90 through 08/31/91	You must have been employed in an eligible position as defined in Section 2, Chapter 274, Laws of 1990, (requiring two or more consecutive months of at least 90 hours of compensated employment each month during (( <del>a school year</del> )) <u>an annual period September through August</u> ).  For substitute teachers: If you met the above criteria, you may apply for membership and service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 2
9/01/91 forward	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during (( <del>a school year</del> )) <u>an annual period September through August</u> ).  For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 2
7/01/96	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during (( <del>the school year</del> )) <u>an annual period September through August</u> ).  For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 3

<sup>1/</sup> If you previously established Plan 1 membership as detailed above, you may reestablish Plan 1 membership after October 1, 1977.

<sup>2/</sup> "Ninety days of employment," under RCW 41.32.240 and this section means either:

(a) Ninety full-time calendar days, or the equivalent, during a ((~~school~~)) fiscal year if you were employed as a teacher under a contract; or

(b) Ninety full-time days of actual, compensated service, or the equivalent, during a ((~~school~~)) fiscal year if you were employed as a substitute teacher.

(c) The "equivalent" of a full-time day of employment under (a) and (b) of this subsection is the sum of partial days which, when added together, equals one full-time day.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Member" - RCW 41.32.010.

(b) "Eligible position" - RCW 41.32.010.

(c) "Employer" - RCW 41.32.010.

(d) "Full-time" - RCW 41.32.240

(e) "Service" - RCW 41.32.010.

(f) "Substitute teacher" - RCW 41.32.010.

(g) "Teacher" - RCW 41.32.010.

((~~(h) "School year" - WAC 415-112-015.~~))

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

**WAC 415-112-140 Am I eligible for membership and service credit as a substitute teacher?** (1) You may apply for membership and service credit in TRS as a substitute teacher if you meet eligibility criteria.

(a) **TRS Plan 1.**

(i) If you are a former Plan 1 member, you may apply to reestablish Plan 1 membership if you work ninety or more full-time days during a ~~((school))~~ fiscal year as a teacher.

(ii) If you are a Plan 1 member, you may apply to the department for service credit in Plan 1 as a substitute teacher if you work a minimum of twenty full-time days during a ~~((school))~~ fiscal year.

(b) **TRS Plan 2.**

(i) You may apply to the department for membership in Plan 2 if you:

(A) Work at least seventy hours for five or more months during ~~((a school year))~~ an annual period September through August; or

(B) Worked at least ninety hours for two consecutive months during the ~~((school year))~~ period of September 1, 1990, through August 31, 1991.

(ii) If you have previously established membership in Plan 2 and have not withdrawn your contributions, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher ~~((during a school year))~~.

(c) **TRS Plan 3.**

(i) You may apply to the department for membership in Plan 3 if you:

(A) Began employment after July 1, 1996; and

(B) Work at least seventy hours for five or more months during ~~((a school year))~~ an annual period September through August.

(ii) If you have established membership in Plan 3, either by transferring from Plan 2 or establishing membership after July 1, 1996, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher ~~((during a school year))~~.

(2) **To apply, you must submit your employer's quarterly reports to the department at the end of a year.**

(a) To apply for membership and service credit as a

substitute teacher, you must submit your employer's quarterly reports to the department no earlier than:

(i) June 30 of the year for which you are applying for Plan 1 service credit; or

(ii) August 31 of the year for which you are applying for Plan 2 or Plan 3 service credit.

(b) Your employer cannot report your service and earnings history as a substitute teacher to the department through the retirement system monthly reporting system unless you are also employed in a separate, eligible position with the same employer.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Member" - RCW 41.32.010.

(b) "Service" - RCW 41.32.010.

(c) "Substitute teacher" - RCW 41.32.010.

(d) "Teacher" - RCW 41.32.010.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

**WAC 415-112-155** If I work concurrently in ~~((both))~~ a TRS position and PERS position ~~((during the same school year))~~, which system will I be in? (1) If you work concurrently in ~~((both))~~ a TRS and PERS position ~~((during the same school year))~~, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either TRS or PERS according to the following tables:

**Former TRS Plan 1 Members <sup>u</sup>**

Type of Employment <sup>u</sup>	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a PERS-eligible position	Same employer	PERS - for both positions.
	Separate TRS employers	<p>PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and <del>((elect))</del> <u>choose</u> to establish TRS membership under RCW 41.32.240.</p> <p>If you <del>((elect))</del> <u>choose</u> to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.</p>

	A TRS employer and non-TRS employer	<p>PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and <del>((elect))</del> <u>choose</u> to establish TRS membership under RCW 41.32.240.</p> <p>If you <del>((elect))</del> <u>choose</u> to establish TRS membership, you must <del>((elect))</del> <u>choose</u> either to:</p> <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>
A full-time teaching position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	<p>You must <del>((elect))</del> <u>choose</u> to:</p> <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>

#### TRS Plan 1 Members

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	<p>You must <del>((elect))</del> <u>choose</u> either to:</p> <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>
A full-time or less than full-time TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	TRS - for the TRS position only; your ineligible PERS position is not reportable.

#### TRS Plan 2 Members

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for TRS position only; your ineligible PERS position is not reported.



	A TRS employer and non-TRS employer	TRS - for TRS position only; your ineligible PERS position is not reported.
An eligible TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions. <sup>3/</sup>
	A TRS employer and non-TRS employer	You must <del>((elect))</del> <u>choose</u> either to: <ol style="list-style-type: none"> <li>Have your TRS service reported in PERS and receive service credit in PERS for both positions;</li> <li>or</li> <li>Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>

#### PERS Members

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for the PERS position only, <del>((unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125(4)))</del> <u>unless you qualify for and elect to establish membership in TRS under WAC 415-112-125(1).</u>  <del>((If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.))</del>
	A TRS employer and non-TRS employer	PERS - for the PERS position only. You will not be reported for the TRS position unless you <del>((elect))</del> <u>choose</u> to either: <ol style="list-style-type: none"> <li>Have your TRS service reported in PERS and receive service credit in PERS for both positions;</li> <li>or</li> <li>Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>

#### Neither TRS Nor PERS Member

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. However, if you qualify, you may <del>((elect))</del> <u>choose</u> to establish membership in TRS <del>((at the end of the school year))</del> for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

	Separate employers, TRS or non-TRS	Neither position reported. However, if you qualify, you may <del>((elect))</del> choose to establish membership in TRS <del>((at the end of the school year))</del> for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
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<sup>1/</sup> "Former TRS 1 member", as used here, means you terminate your membership by withdrawing your contributions.

<sup>2/</sup> Means during the same ~~((school year))~~ time period.

<sup>3/</sup> EXAMPLE: A TRS Plan 2 member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS Plan 2 through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS Plan 2.

EXAMPLE: A TRS Plan 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS Plan 2 member, School District B employer must report his service and compensation from the PERS position to the Department in TRS Plan 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.32.010 (TRS); RCW 41.40.010 (PERS).

(b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).

(c) "Full time" - RCW 41.32.240.

(d) "Ineligible position" - WAC 415-112-015 (TRS); RCW 41.40.010 (PERS).

(e) "Member" - RCW 41.40.010.

(f) "Membership" - RCW 41.40.023.

(g) "Report" - WAC 415-108-0104.

(h) "Service" - RCW 41.40.010.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

**WAC 415-112-156** If I work concurrently in ~~((both))~~ a TRS position and SERS position ~~((during the same school year))~~, which system will I be in? (1) If you work concurrently in ~~((both))~~ a TRS and SERS position ~~((during the same year))~~, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either TRS and SERS according to the following table:

**Former TRS Plan 1 Members <sup>1/</sup>**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a SERS-eligible position	Same SERS employer	SERS - for both positions.

	Separate SERS employers	SERS - for SERS position only. Your substitute part-time position is not reported unless you qualify for and <del>((elect))</del> <u>choose</u> to establish TRS membership under RCW 41.32.240.  If you <del>((elect))</del> <u>choose</u> to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.
A full-time teaching position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

#### TRS Plan 1 Members

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.
A full-time or less than full-time TRS position and an ineligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

#### TRS Plan 2 or 3 Members

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for TRS position only; your ineligible SERS position is not reported.
An eligible TRS position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions. <sup>3/</sup>

#### SERS Members

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible SERS position and an ineligible TRS or substitute position	Same employer	SERS - for both positions.
	Separate SERS employers	SERS - for the SERS position only, unless you qualify for and <del>((elect))</del> <u>choose</u> to establish membership in TRS <del>((at the end of the school year))</del> under WAC 415-112-125(1).  If you <del>((elect))</del> <u>choose</u> to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.

### Neither TRS Nor SERS Member

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible SERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate SERS employers	Neither position reported.
A substitute teaching position and an ineligible SERS position	Same employer	Neither position reported. However, if you qualify, you may <del>((elect))</del> <u>choose</u> to establish membership in TRS <del>((at the end of the school year))</del> for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate SERS employers	Neither position reported. However, if you qualify, you may <del>((elect))</del> <u>choose</u> to establish membership in TRS <del>((at the end of the school year))</del> for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

<sup>1/</sup> "Former TRS 1 member," as used here, means you terminate your membership by withdrawing your contributions.

<sup>2/</sup> Means during the same ~~((school year))~~ time period.

<sup>3/</sup> EXAMPLE: A TRS 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible SERS position. Because he is a TRS 2 member, School District B employer must report his service and compensation from the SERS position to the department in TRS 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in SERS for the SERS position.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(b) "Employer" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(c) "Ineligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(d) "Member" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(e) "Membership" - RCW 41.35.030 (SERS).

(f) "Report" - WAC 415-110-010 (SERS).

(g) "Service" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

**WAC 415-112-330** ~~((Calculating service credit for Plan 1 K-12 employees.))~~ How does the department calculate service credit for TRS Plan 1 employees? ~~((For Plan 1 members who are employed by a school district, a school year will consist of one hundred eighty days. One year of service credit will be granted to a Plan 1 member who is employed as a classroom teacher for one hundred forty four or more days during a school year. A fractional year of credit will be granted to a Plan 1 member who is employed for at least twenty days but less than one hundred forty four days during a school year. The fraction will use days employed as the numerator and one hundred eighty as the denominator.~~

~~(1) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, a Plan 1 classroom teacher will be granted one day of credit for every seven hours of compensated employment.~~

~~(2) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, Plan 1 K 12 employees other than school district classroom teachers will earn one day of credit for every eight hours of compensated employment.))~~ For TRS Plan 1 calculations, one year of service credit consists of one hundred eighty days of instruction.

(1) As a TRS Plan 1 member employed by a school district, educational service district, school for the blind, or school for the deaf:

(a) Unless otherwise determined by a contract, bargaining agreement or employer policy:

(i) A classroom teacher will earn one day of service credit for each seven hours of compensated employment; and

(ii) A K-12 employee other than a classroom teacher will earn one day of service credit for every eight hours of compensated employment; and

(b) You will earn one full year of service credit for one hundred forty-four or more days of employment during a fiscal year; or a fractional year of service credit for at least twenty days but less than one hundred forty-four days of employment during a fiscal year. The fraction will use days employed as the numerator and one hundred eighty as the denominator.

(2) As a TRS Plan 1 member employed by a community or technical college:

(a) Unless otherwise determined by a contract, bargaining agreement or employer policy, you will earn one day of service credit for eight hours of compensated employment; and

(b) One full year of service credit when you have service for four-fifths of the adopted annual academic calendar; or a fractional year of service credit for at least twenty days but less than four-fifths of the annual academic calendar.

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

**WAC 415-112-400** ~~((When does the employer deduct salary for retirement contributions?))~~ **Purpose and scope of TRS earnable compensation rules.** ~~((If the teacher or member is entitled to have salary deducted for retirement contributions, the employer must make the deductions when the teacher or member starts work.~~

~~(1) Plan 1.~~

~~(a) The employer must deduct salary for retirement contributions for a teacher who has not been a member if:~~

~~(i) The teacher is employed full time (at least four-fifths of a school day or full time assignment); and~~

~~(ii) The teacher's employment contract calls for at least ninety days of employment in a school year.~~

~~(b) The employer must also deduct the salary of each teacher who is a member employed full time if their employment contract calls for at least twenty days of employment in a school year.~~

~~(c) If a teacher who is not a member is employed for less than ninety days in a school year, the teacher will fail to establish membership. The employer must refund the teacher's salary deductions for retirement when he or she terminates employment as a teacher. The member must file a refund application with the department before he or she can receive the refund.~~

~~(d) If a member is employed by an employer for less than twenty days in a school year, the employer must refund all salary deductions for retirement based on service during that year at the time the member terminates for the year. The member must file a refund application with the department before he or she can receive the refund.~~

~~(2) Plan 2 and Plan 3: The employer must deduct contributions for a teacher if the teacher is employed in an eligible position.))~~ WAC 415-112-402 through 415-112-491 provide the department's interpretation of statutes and its administrative practice regarding classification of payments as

earnable compensation in all TRS plans. The department has applied and will apply these rules to determine the proper characterization of payments occurring prior to the effective dates of these sections.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

**WAC 415-112-440 ((Withdrawal of contributions.)) May I withdraw my employee contributions?** ~~((1) A member who is employed in the public schools of this state for consecutive school years shall be considered as employed during the summer months and, therefore, may not qualify for withdrawal of his accumulated contributions. Termination of Washington public school employment at the close of a school year with one employer to accept employment with another Washington public school employer for the ensuing school year shall not qualify a member for withdrawal of his accumulated contributions.~~

~~(2) A member who is on official leave of absence from a Washington public school employer shall not be considered to have terminated his employment and, therefore, shall not be eligible to qualify for withdrawal of his accumulated contributions.))~~ (1) You may withdraw TRS contributions only upon termination of employment.

(2) You may not withdraw TRS contributions during any period in which you remain employed. For example:

(a) A teacher is considered to remain employed during the summer break that is often included in a school's official calendar. This is true whether the teacher is employed by the same employer or by different employers before and after the summer break.

(b) A teacher is considered to remain employed during a period of official leave from a Washington public school employer.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

**WAC 415-112-600 ((Eligibility)) Am I eligible for temporary disability benefits((-))?** As a member or the beneficiary of a deceased member of ((the teachers' retirement system shall be)) TRS Plan 1, you are covered for benefits under the temporary disability program ((only while employed on a full-time basis. Full-time employment during one school year shall afford disability protection until the beginning of the regular school term of the following school year)) according to the provisions of RCW 41.32.540.

AMENDATORY SECTION (Amending WSR 93-20-021, filed 9/24/93, effective 10/25/93)

**WAC 415-112-810 ((Bona fide employee.)) Who qualifies for the alternate computation of earnable compensation in RCW 41.32.345?** ((The purpose of WAC 415-112-800 through 415-112-830 is to implement the intent of the legislature that section 2, chapter 265, Laws of 1987 not be used to unfairly inflate a member's retirement allowance. The department shall apply section 2, chapter 265, Laws of 1987 only to members who are bona fide part time employees. A member will be deemed a bona fide part-time employee only if the member has received less than one year of service credit and only as necessary to ensure that a member who receives fractional years of service credit receives benefits proportional to those received by members who have received full time service credit.)) RCW 41.32.345 provides an optional alternate method to compute earnable compensation for certain TRS Plan 1 part-time employees. The alternate calculation in RCW 41.32.345 is intended to ensure that a TRS Plan 1 part-time employee who earns a fractional year of service credit will receive benefits proportional to those benefits received by a member for a full year of service credit.

(1) To be eligible for the alternate calculation in RCW 41.32.345, you must be a "bona fide employee."

(2) You, as a TRS Plan 1 member, are a "bona fide employee" if:

(a) You work in a bona fide position, as defined in WAC 415-112-820, for each of two consecutive fiscal years, the



second of which may be in an extended school year program according to WAC 415-112-835; and

(b) You earn less than one full year of service credit.

AMENDATORY SECTION (Amending WSR 93-20-021, filed 9/24/93, effective 10/25/93)

**WAC 415-112-820 ((~~Bona fide part-time position--How determined.~~)) What is a bona fide position for purposes of WAC 415-112-810?**

~~((1) In order for a Plan I member to be considered a bona fide part time employee for two consecutive fiscal years and to elect to have his or her earnable compensation adjusted under RCW 41.32.345, the Plan I member must be employed for each of the two consecutive fiscal years:~~

~~(a) Under contract for an entire school year if the member is employed by a school district, or an educational service district;~~

~~(b) Under contract during three academic quarters of a fiscal year if the member is employed by an institution of higher education, the state school for the deaf or the state school for the blind;~~

~~(c) By one or more employers for at least twenty days but less than one hundred forty four days during the fiscal year;~~

~~(d) In an instructional position, which is a position in which more than seventy five percent of the member's time, including office hours, is spent as a classroom instructor, a librarian, or a counselor.~~

~~(2) In addition to the factors listed in subsection (1) of this section, in the case of a member who elects to have earnable compensation defined as provided in section 2, chapter 265, Laws of 1987, the department will determine whether the member held a bona fide part-time position during the years used to compute benefits, and what earnable compensation the member would have received if employed on a regular full time basis in the same position under section 2, chapter 265, Laws of 1987. The department may consider, but not be limited to considering, the following factors:~~

~~(a) The salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200 by the school district by which the member was employed;~~

~~(b) The salary schedule, workload provisions, or related documents, used by the community college district by which the member was employed, including salary schedules or workload provisions contained in a collective bargaining agreement negotiated pursuant to chapter 28B.52 RCW;~~

~~(c) Whether the member's position is included on the employing district's salary schedule, in workload provisions, or in a collective bargaining agreement, and whether the member's position has duties, responsibilities, workload requirements, or methods of pay similar to those of positions found in the district's schedule, provisions, or collective bargaining agreement;~~

~~(d) When the member's position was created, and how long the position was held by the member;~~

~~(e) Whether the member has previously retired under the provisions of chapter 41.32 RCW.~~

~~(3) Upon the department's request, employers shall provide to the department information addressing the factors listed in subsection (1) of this section and such further information as the department may request.~~

~~(4) If a member is employed by more than one employer, all of the member's employment will be combined for purposes of determining whether the member has met the criteria of subsection (1) of this section.)~~ If you are a TRS Plan 1 member and meet the requirements in this section, you are deemed to occupy a bona fide position for purposes of WAC 415-112-810 through 415-112-835.

(1) Service for single employer. You are employed in a bona fide position if you perform contracted service for one and only one employer and you satisfy the requirements of (a), (b), and (c) of this subsection.

(a) Written contract. You are employed under a part-time written contract with a school district, educational service district, community or technical college, school for the deaf, or school for the blind that meets the following conditions:

(i) Contract with school district or educational service district. You must be under a part-time contract from the first teaching day to the last teaching day of the school's official calendar.

(ii) Contracts with community or technical college, school for the blind, or school for the deaf. You must be under part-time contracts for three of the four academic quarters (summer, fall, winter, or spring) of the institution's official calendar.

(b) Instructional position. You are employed in an instructional position. An instructional position is a position in which more than seventy-five percent of your time, including office hours, is spent as a classroom instructor, a librarian, or a counselor.

(c) Number of days. Under the contract(s), you must be employed not less than twenty full-time days or the equivalent, and earn less than a full year of service credit.

(2) Combining service to meet requirements of subsection (1) of this section. When you provide services under part-time written contracts with more than one employer, service under all

part-time written contracts must be combined to determine if you are employed in a bona fide position. You are employed in a bona fide position only if you satisfy the requirements of (a), (b), and (c) of this subsection.

(a) Written contract. You are employed under two or more written contracts with a school district, educational service district, community or technical college, school for the deaf, or school for the blind. You must be under contract for the equivalent of three of the four academic quarters (summer, fall, winter, or spring) of the institution's official calendar.

Example 1. Susan is employed part time with School District B from September 1 through December 31. She is employed with School District C from January 1 through June 20. Susan meets the "written contract" requirement of this subsection because she is under contract for the equivalent of three academic quarters (fall, winter, and spring).

Example 2. Bill is employed with School District B from September 1 through December 31. He is employed with Community College C for Winter and Spring quarters. Bill meets the "written contract" requirement of this subsection because he is under contract for the equivalent of three academic quarters (fall, winter, and spring).

(b) Instructional position. The hours you spend as a classroom instructor, a librarian, or a counselor in any of the positions must be at least seventy-five percent of the total hours of service in all the positions.

(c) Number of days. The total number of days in all contracted positions must not be less than twenty full-time days or the equivalent, and must not be more than the one hundred forty-four full-time days or the equivalent.

(3) To determine if you meet the foregoing requirements, the department may consider additional information. Upon the department's request, employers must provide, without limitation, the following information:

(a) For school district employees, the salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200 by the school district by which the member was employed;

(b) Whether your position is included on the employing district's salary schedule, in workload provisions, or in a collective bargaining agreement;

(c) Whether your position has duties, responsibilities, workload requirements, or methods of pay similar to those of positions found in the district's schedule, workload provisions, or collective bargaining agreement;

(d) When your position was created, and how long you held the position;

(e) Whether you have previously retired under the provisions of chapter 41.32 RCW.

AMENDATORY SECTION (Amending WSR 93-20-021, filed 9/24/93, effective 10/25/93)

~~WAC 415-112-830 ((Adjusting earnable compensation earned in a bona fide part-time position.))~~ How is earnable compensation adjusted for bona fide employees? ~~((The department will use the following method to determine earnable compensation for members of Plan I employed in a bona fide part-time positions as determined under WAC 415 112 820, who elect to have their earnable compensation determined under RCW 41.32.345. The purpose of the calculation is to determine what a member would have earned in his or her position if employed on a regular full time basis for the same contract period under their same classification.~~

~~(1) The member's employer or employers will provide written verification of the following:~~

~~(a) The number of hours in a full school day for the member's employer. In the absence of an indication in employment contracts or elsewhere concerning what constitutes one day of employment, the department will designate seven hours as the length of a school day;~~

~~(b) The number of work days in a school year under a regular full-time contract. As provided in RCW 41.32.345 (3)(a), only work days identified in contracts adopted pursuant to RCW 28A.405.200 shall be counted under this subsection. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a regular full-time contract;~~

~~(c) The number of hours in a school year ((a) of this subsection multiplied by (b) of this subsection).~~

~~(d) If a bona fide part-time employee was employed by more than one employer during the school year in question, the department will average the number of hours in a full school day and the number of school days in a year in order to determine the average number of hours in a school year for purposes of applying this section.~~

~~(2) The member's employer will provide the following written information regarding the bona fide part time employment of the Plan I member during each of the two consecutive years for which the member elects to have his or her compensation~~

~~adjusted under RCW 41.32.345:~~

~~(a) Total hours worked by the employee under all employment contracts;~~

~~(b) Total earnable compensation earned under all employment contracts entered into by the employee;~~

~~(c) If applicable, the percent or portion of a full time contract worked by the employee; and~~

~~(d) Net average hourly wage earned by the employee ((b) of this subsection divided by (a) of this subsection).~~

~~(3) To determine the member's adjusted earnable compensation under RCW 41.32.345 the department will multiply the member's average hourly wage as determined in subsection (2) of this section by the number of hours in a school year as determined by subsection (1) of this section. The product equals the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period.)) Pursuant to RCW 41.32.345, if you are a bona fide employee, as defined in WAC 415-112-810, you may choose to have your annual earnable compensation computed as outlined in this section, rather than as set forth in WAC 415-112-430.<sup>1</sup>~~

(1) The department will determine the number of hours you would have worked if you were employed on a regular full-time basis by multiplying the average hours per day reported under (a) of this subsection, by the average number of workdays reported under (b) of this subsection. For each position you occupied during a fiscal year, your employer must provide written verification of:

(a) The number of hours in the employer's school day.

(i) Unless otherwise determined by a contract, bargaining agreement or employer policy, the department considers the length of a school day to be seven hours.

(ii) If you were employed in more than one position to meet the requirements of a bona fide position, the department will average the number of hours in the full school day of each of your employers to determine the number of hours in a school day; and

(b) The number of workdays in the official calendar of the institution under a regular full-time contract, subject to the following conditions:

(i) For K-12 teachers, only workdays identified in contracts adopted pursuant to RCW 28A.405.200 will be counted under this subsection. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a "regular full-time contract."

(ii) If you were employed in more than one position to meet the requirements of a bona fide position, the department will average the number of school days in the official calendar of

each of your employers in order to determine the number of work days.

(2) The department will calculate your average hourly rate by dividing your total compensation, as reported under (b) of this subsection, by the total hours reported under (a) of this subsection. Your employer(s) must provide the following written information:

(a) Total hours you worked during the fiscal year under all employment contracts with the employer;

(b) Total earnable compensation earned during the fiscal year under all employment contracts between you and employer; and

(c) The percent or portion of a full-time contract you worked.

(3) To determine your adjusted earnable compensation under RCW 41.32.345, the department will multiply your average hourly wage, as determined in subsection (2) of this section, by the number of hours in the official calendar, as determined by subsection (1) of this section. The product is the compensation you would have received in the same position if employed on a regular full-time basis.

<sup>1</sup>Certain bona fide employees in extended school year programs may elect to have their annual earnable compensation modified under either WAC 415-112-830 or 415-112-835.

## NEW SECTION

**WAC 415-112-835 How is the computation in WAC 415-112-830 modified for teachers in extended school year programs?** (1) If you are a bona fide employee as defined in WAC 415-112-810, and meet the following two criteria, you may choose to have annual earnable compensation calculated under this section<sup>1</sup>:

(a) You work under contract in an extended school year program during the second of the two consecutive fiscal years in WAC 415-112-810 (2)(a); and

(b) You work past June 30 of the second fiscal year.

(2) The "alternate period" in WAC 415-112-430 (2)(b) is subdivided into two consecutive twelve-month periods. For purposes of this section, each of these periods is referred to as an "alternate twelve-month period." Annual earnable compensation is determined for each alternate twelve-month period.

(3) The department will determine the number of hours you would have worked if you were employed on a regular full-time basis by multiplying the average hours per day reported under (a) of this subsection, by the average number of workdays reported under (b) of this subsection. For each position you

occupied during the alternate twelve-month period, your employer must provide written verification of:

(a) The number of hours in the employer's school day.

(i) Unless otherwise determined by a contract, bargaining agreement or employer policy, the department considers the length of a school day to be seven hours.

(ii) If you were employed in more than one position to meet the requirements of a bona fide position, the department will average the number of hours in the full school day of each of your employers to determine the number of hours in a school day.

(b) The number of workdays in the official calendar of the institution under a regular full-time contract, subject to the following conditions:

(i) For K-12 teachers, only workdays identified in contracts adopted pursuant to RCW 28A.405.200 will be counted under this subsection. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a "regular full-time contract."

(ii) If you were employed in more than one position to meet the requirements of a bona fide position, the department will average the number of school days in the official calendar of each of your employers to determine the number of workdays.

(4) The department will calculate your average hourly rate by dividing your total compensation, as reported under (b) of this subsection, by the total hours reported under (a) of this subsection. Your employer(s) must provide the following written information regarding your bona fide employment:

(a) Total hours you worked during the alternate twelve-month period under all employment contracts with the employer;

(b) Total earnable compensation earned during the alternate twelve-month period under all employment contracts between you and employer; and

(c) The percent or portion of a full-time contract you worked.

(5) To determine your adjusted earnable compensation under RCW 41.32.345, the department will multiply your average hourly wage as determined in subsection (4) of this section by the number of hours in the official calendar as determined by subsection (3) of this section. The product is the compensation you would have received in the same position if employed on a regular full-time basis.

<sup>1</sup>Certain bona fide employees in extended school year programs may elect to have their annual earnable compensation modified under either WAC 415-112-830 or 415-112-835.